



# Commonwealth of Massachusetts State Ethics Commission

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SUFFOLK, ss.

COMMISSION ADJUDICATORY  
DOCKET NO. 535

## IN THE MATTER OF RALPH PARISELLA

### DISPOSITION AGREEMENT

This Disposition Agreement ("Agreement") is entered into between the State Ethics Commission ("Commission") and Ralph Parisella ("Parisella") pursuant to §5 of the Commission's Enforcement Procedures. This Agreement constitutes a consented to final order enforceable in the Superior Court, pursuant to G.L. c. 268B, §4(j).

On May 25, 1993, the Commission initiated, pursuant to G.L. c. 268B, §4(a), a preliminary inquiry into possible violations of the conflict of interest law, G.L. c. 268A, by Parisella. The Commission has concluded its inquiry and, on July 11, 1995, found reasonable cause to believe that Parisella violated G.L. c. 268A.

The Commission and Parisella now agree to the following findings of fact and conclusions of law:

1. At the times here relevant, Parisella was a member of the Beverly Licensing Board ("Board"), an appointed position Parisella has held since 1988. As such, Parisella was, at all times here relevant, a municipal employee as that term is defined in G.L. c. 268A, §1.

2. As a Board member, Parisella's duties included issuing, overseeing and enforcing alcoholic beverages licenses in accordance with state and local laws.

3. Parisella owned Ralph's Market in Beverly for 35 years, until he sold it in 1988. While Parisella owned Ralph's Market, he developed an ice business, Ralph's Ice. When Parisella sold Ralph's Market, he retained ownership of Ralph's Ice.

4. In 1992, Parisella was semi-retired and Parisella's son, Jason Parisella ("Jason"), was running Ralph's Ice, the ownership of which Parisella and his wife were then in the process of transferring to Jason. In 1992, Parisella still continued to help out with Ralph's Ice when the business was especially busy, was still involved in the management of Ralph's Ice and continued to receive a salary from Ralph's Ice.

5. In 1992, Ralph's Ice was the only ice company located in Beverly. There were, however, other ice companies located outside of Beverly which supplied ice to businesses in Beverly. Patten Co. Ice ("Patten Ice") of Peabody and Salem Ice of Salem were Ralph's Ice's two main competitors in 1992.

6. In 1992, Ralph's Ice had approximately 75 customer accounts, including gas stations, convenience and grocery stores, package stores, restaurants and other retail outlets. Among Ralph's Ice's customers were Cornerstone Liquor Store ("Cornerstone") and Cabot Liquor Store ("Cabot"), both owned by Jerry Dubrow and his son Robert Dubrow (together "the Dubrows"); and Simpson's Package Store ("Simpson's") and Ryalside Liquors ("Ryalside"), both owned by George Finn ("Finn"). Each store did approximately \$200 per year in business with Ralph's Ice. Cornerstone, Cabot, Simpson's and Ryalside were Beverly package stores licensed by the Board to sell alcoholic beverages.

7. In early 1992, the new owner of Ralph's Market applied to the Board for a license to sell beer and wine. Parisella was not involved in Ralph's Market's license application, either privately or as a member of the Board. Ralph's Market's license application was opposed by Finn and the Dubrows. In October 1992, the Board granted a beer and wine license to Ralph's Market. Parisella did not participate as a Board member in the granting of the license to Ralph's Market.

8. The Board's granting of the beer and wine license to Ralph's Market upset Finn and the Dubrows. Finn and the Dubrows blamed Parisella for the granting of the license to Ralph's Market.

9. On October 26, 1992, Finn told Parisella he was changing ice suppliers for his two stores because of the Board's issuance of the license to Ralph's Market. Parisella tried to convince Finn not to change ice suppliers. During their conversation, Parisella told Finn that he had nothing to do with the issuance of the license to Ralph's Market. In an effort to convince Finn to continue doing business with Ralph's Ice, Parisella reminded Finn that Parisella was pro-business and referred to another Board member, Russ Kiernan ("Kiernan"), who had a history of opposition to outside signs on liquor stores (which Beverly retailers considered important to their business). Exactly what Parisella said to Finn is uncertain; however, Parisella's statements were such as would cause a reasonable person hearing them and knowing the relevant circumstances to conclude that Parisella, as a Board member, would intercede with Kiernan on the sign issue if Finn continued to buy ice from Ralph's Ice, but would not do so if Finn changed ice suppliers. As a result of this conversation with Parisella, Finn decided to remain a customer of Ralph's Ice.

10. On October 29, 1992, Cornerstone was in the process of changing ice suppliers from Ralph's Ice to Patten Ice. While Patten Ice employees were in Cornerstone to install their ice cooler, Parisella saw the company's truck parked in front of the store, entered the store, observed what was occurring and confronted Robert Dubrow. In the ensuing conversation with Robert Dubrow, Parisella referred to Kiernan and Kiernan's opposition to outdoor signage. Exactly what Parisella said to Robert Dubrow is uncertain; however, Parisella's statements were such as would cause a reasonable person hearing them and knowing the relevant circumstances to conclude that Parisella, as a Board member, had in the past prevented Kiernan from acting on the signage issue, and would cease doing so if Robert Dubrow changed ice suppliers.

11. After this discussion with Robert Dubrow, Parisella left Cornerstone, went to Cabot and asked Jerry Dubrow why Cornerstone was "throwing out [Ralph's Ice] ice." Jerry Dubrow told Parisella that Cornerstone and Cabot were changing ice suppliers because Ralph's Market had been given a beer and wine license. Parisella responded that he did not vote on the license and did not have anything to do with it. Parisella, in this conversation with Jerry Dubrow, also referred to Kiernan and Kiernan's opposition to outdoor signage. Again, exactly what Parisella said to Jerry Dubrow is uncertain; however, Parisella's statements were such as would cause a reasonable person hearing them and knowing the relevant circumstances to conclude that Parisella, as a Board member, had in the past prevented Kiernan from acting on the sign issue and would cease doing so if Jerry Dubrow changed ice suppliers.

12. As a result of their October 29, 1992 conversations with Parisella, the Dubrows decided to remain customers of Ralph's Ice.<sup>1/</sup>

13. Kiernan was a Board member for ten years until he resigned in late 1992. According to Parisella and Kiernan, the following statements are true: Other than their Board service, Kiernan and Parisella had no relationship. Parisella had no influence over Kiernan while Kiernan served on the Board. As a Board member, Kiernan opposed signs for mostly aesthetic reasons. Kiernan was not aware that Parisella discussed Kiernan's position on signs with liquor store owners. Kiernan never discussed the sign issue with Parisella outside of Board meetings. Parisella never attempted to convince Kiernan to "back off" of the sign issue. (The Commission is aware of no evidence contradicting these statements.)

14. Section 23(b)(2) of G.L. c. 268A prohibits a municipal employee from, knowingly or with reason to know, using or attempting to use his official position to obtain for himself or others unwarranted privileges of substantial value which are not properly available to similarly situated persons.

15. The Dubrows' and Finn's annual ice purchases from Ralph's Ice were of substantial value.<sup>2/</sup>

16. As set forth above, Parisella used his position as a Board member to retain the business of Finn and the Dubrows for himself and his son as owners of Ralph's Ice. Parisella's use of his official position to retain the business of Finn and the Dubrows was, thus, the use of Parisella's official position to obtain an unwarranted privilege of substantial value. In so using his official position, Parisella violated §23(b)(2).

17. Section 23(b)(3) of G.L. c. 268A prohibits a municipal employee from knowingly, or with reason to know, acting in a manner which would cause a reasonable person, having knowledge of the relevant circumstances, to conclude that any person can improperly influence or unduly enjoy his favor in the performance of his official duties, or that he is likely to act or fail to act as a result of kinship, rank, position or undue influence of any party or person.

18. Parisella, by making statements to the Dubrows and Finn implying that their failure to continue doing business with Ralph's Ice would affect his actions as a Board member, knowingly, or with reason to know, acted in a manner which would cause a reasonable person, with knowledge of the relevant circumstances, to conclude that Parisella, as a Board member, would officially favor people doing business with Ralph's Ice and, thus, that those persons could improperly influence or unduly enjoy Parisella's favor in the performance of his official duties as a Board member. Thus, Parisella violated G.L. c. 268A, §23(b)(3).<sup>3/</sup>

19. Parisella fully cooperated with the Commission's investigation.

In view of the foregoing violation of G.L. c. 268A by Parisella, the Commission has determined that the public interest would be served by the disposition of this matter without further enforcement proceedings, on the basis of the following terms and conditions agreed to by Parisella:

(1a that Parisella pay to the Commission the sum of one thousand dollars (\$1,000) as a civil penalty for violating G.L. c. 268A, §23; and

(2a that Parisella waive all rights to contest the findings of fact, conclusions of law and terms and conditions contained in this Agreement in this or any other related administrative or judicial proceedings to which the Commission is or may be a party.

DATE: October 16, 1995

<sup>1/</sup> Parisella stopped doing business with Finn and the Dubrows in 1993, after Parisella learned of the Commission's investigation into this matter.

<sup>2/</sup> Anything worth \$50 or more is of substantial value for G.L. c. 268A purposes. See *Commonwealth v. Famigletti*, 4 Mass. App. Ct. 584, 587; EC-COI-93-14.

<sup>3/</sup> Although an appointed official, such as Parisella was as a Board member, may avoid a violation of §23(b)(3) by a written disclosure to his appointing authority, Parisella made no such disclosure.